IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8328 Of 2005

Vidyut Maji .... Petitioner

versus

Uttam Kumar Bijay Dilvi & ors. ... Respondents.

Shri V.K.Gupta for the petitioner.
Shri R.D. Vora for Respondent no.1.

CORAM; P.V. KAKADE, J.

DATED; FEBRUARY 08, 2006.

P.C:

1. Heard the learned advocates for both the parties.

Perused the record.

2. The petitioner has filed this petition against the judgment and order passed by the lower court dated 6-8-2005 in interim notice No.5903/03 in RAD 2117/03 holding that the court has jurisdiction to entertain and try the said suit and the suit was within the limitation and rejected the plea of the present petitioner who is defendant no.3.

3. The suit was filed by the plaintiff on the ground that he was a tenant in respect of the premises and the defendant no.1 was the landlord. The defendant no.2 is

hailing from the same village as that of the defendant no.1 and also doing a business of gold smith and therefore was allowed by the plaintiff to use the suit premises for keeping the business articles and to do business along with the plaintiff. The plaintiff was needed some money for going to his native place and it was to loan from defendant no.3 and while loaning the same amount he had asked the plaintiff to put some signature on a stamp paper. Since the defendant no.2 was hailing from the same village, the plaintiff in good faith signed the blank stamp paper. But after returning from the native place, the plaintiff found that the lock on the suit premises was changed and it came to his knowledge that the defendant no.2 had filed RAD suit No.33 of 2000 after forging the documents and making use of stamp papers signed by the plaintiff. The plaintiff had never surrendered his tenancy right at any point of time, but the defendant no.1 has transferred the rent received in favour of defendant no.3 illegally without the consent and knowledge of the plaintiff. Hence according to the plaintiff the defendant nos. 1 to 3 were in collusion and suit came to be filed for declration that the transfer was bad in law and for restoration of the plaintiff's right as tenant in the property.

4. The petitioner defendant no.3 while resisting the

said plea, challenged the notice on the ground of jurisdiction as well as limitation.

5. The trial Judge after hearing both the parties came to the conclusion that the said court had jurisdiction to entertain the suit and also within the limitation and rejected the application and hence the present petition is filed.

6. At the outset it may be noted that plaintiff has filed the suit for seeking declaration as tenant in respect of the suit premises on the ground that on the basis of forged document, and his signature obtained on stamp paper by mis representation by defendant no.3, the defendant no.1 had transferred the tenancy in favour of defendant no.3 though the plaintiff has not surrendered the tenancy right. Therefore it is obvious that the the question of fact has to be certainly examined and also to decide whether the applicant can be declared as tenant. This aspect itself would show that it would be within the four corners of the provisions of Maharashtra Rent Control Act and therefore without further elaboration I must say that the trial court has jurisdiction to entertain the suit.

7. Similarly the alleged tenancy of defendant no.3 regarding which the declaration is sought for,it is on

the basis of alleged transfer of tenancy by rent receipt dated 1-7-2003 and since the suit is also filed in the year 2003 and therefore the suit is within the limitation.

8. The learned trial Judge appears to have properly appreciated the entire factual aspect of the record before him and has come to the right conclusion regarding the question of jursidicton as well as limitation. In the circumstances, there is no ground to interfere in the lower cour's order.

7. In the result the petition stands dismissed with no order as to costs.

C.C. expedited.

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